



Mary-Ann Warmerdam
Director

Department of Pesticide Regulation



Arnold Schwarzenegger
Governor

San Diego County Agricultural Commissioner Pesticide Regulatory Program 2007/2008 Performance Evaluation Report

**California Environmental Protection Agency
Department of Pesticide Regulation
1001 I Street
Sacramento, California 95814**

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Performance Evaluation of the San Diego County Agricultural Commissioner's Pesticide Regulatory Program for the fiscal year 2007-2008

This report provides a performance evaluation of San Diego County Agricultural Commissioner's Office (SD CAC) pesticide regulatory program (PRP) program for the fiscal year 2007-2008 (FY 07/08). The assessment evaluates the performance of goals identified in the SD CAC's 07/08 enforcement work plan as well as the SD CAC program's adherence to Department of Pesticide Regulation (DPR) standards as described in the Pesticide Use Enforcement Standards Compendium.

I. Summary Report of Core Program Elements

A) Restricted Materials Permitting:

The restricted materials permitting program element was found to meet DPR standards and work plan goals.

B) Compliance Monitoring:

The compliance monitoring program element was found to meet DPR standards and work plan goals.

C) Enforcement Response:

The enforcement response program element was found to meet DPR standards and work plan goals.

Summary Statement:

The total resources of the SD CAC PRP program during FY 07/08 were approximately 32,950 hours. This includes 20,317 licensed hours for activities in Pesticide Regulatory Activities Monthly Report (PRAMR) categories I - XIII, 5,037 "other" hours (supervision, special projects, etc.) and 7,594 support hours (clerical and other unlicensed staff). The SD CAC PRP has consistently met DPR overall standards for a CAC pesticide use enforcement program.

No deficiencies have been identified in the SD CAC's pesticide use enforcement program and the overall program is currently effective.

II. Assessment of Core Program Effectiveness and Work Plan Goals

A) Restricted Materials Permitting - Effective

The DPR Enforcement Branch Liaison (EBL) reviewed a representative sample of Operator ID and restricted materials permits and multi-year permits. SD CAC issued 289 California Restricted Material permits during the FY 07/08 for production agriculture, non-production agriculture, and "non-ag" sites to various growers, pest control businesses, private certified applicators, and government agencies. The SD CAC staff adequately evaluated permits and determined if the use of feasible alternatives were required. The EBL determined the Operator ID

and RMP documents issued by SD CAC staff members met DPR standards and applicable regulatory requirements.

SD CAC records indicate PRP inspectors conducted pre-application inspections on approximately 5% of their 1,867 agricultural RMP Notices of Intent (NOI) which met the California Code of Regulations Section 6436 regulatory requirement of 5% monitoring. SD CAC followed DPR policy and work plan goals in giving the highest priority in the NOI and site monitoring to activities involving fumigants and other Category I materials, restricted material applications near sensitive sites, and/or those with a history of non-compliance or complaints.

SD CAC continued their local requirement of restricted materials permits for aerial applications of Agri-mek on avocados due to a long history of local concerns and complaints. SD CAC field inspectors closely monitor these applications.

The permits contained the necessary information and identified treatment areas and sensitive areas that could be adversely impacted by the permitted uses. The permits identified mitigation measures and included conditions that addressed known hazards.

B) Compliance Monitoring - Effective

1). Investigations (Priority and Non-Priority)

SD CAC conducted and completed 110 investigations during FY 07/08. The EBL and Worker Health and Safety Branch (WH&S) reviewed these investigations and determined SD CAC met DPR standards for timeliness and thoroughness. WH&S tracking records indicated SD CAC met DPR standards and their own work plan goals for timely completion and submission of DPR assigned investigations. The investigations document violations and the CAC staff collects evidence according to DPR standards. The investigations adequately provide information necessary to successfully prosecute violations.

The EBL and WH&S review of SD CAC investigations indicated SD CAC consistently followed DPR policies and met DPR standards by conducting investigations and preparing reports with overall thoroughness and completeness.

2). Inspections (Agricultural and Structural)

The EBL reviewed a representative sample of the approximately 1,055 inspections conducted by SD CAC staff during FY 07/08. The records reviewed by the EBL indicated SD CAC conducted the inspections throughout the county both in a geographical sense and in terms of monitoring all types of industry performing work in the county, with highest emphasis on those segments of industry and/or individual companies or organizations with a history of compliance problems. A review of the cumulative inspection categories' totals

reported on the PRAMR indicated the majority of the time SD CAC achieved and sometimes exceeded FY 07/08 internal goals for the various types of inspections.

The EBL assigned to San Diego County also conducted structural and agricultural oversight inspections with various SD CAC PRP inspectors. The EBL's conclusions regarding this core program sub-element were based on the combination of SD CAC inspection records reviews, EBL oversight field observations, interviews at various times with SD CAC field staff, and EBL follow-up discussions with PRP managers. The EBL determined SD CAC consistently followed DPR's policies and procedures regarding performing inspections and associated follow-up activities with thoroughness and completeness.

C) Enforcement Response - Effective

The EBL reviewed a representative sample from approximately 844 compliance action documents (Notice of Violation, Warning Letters, Decision Reports and Cease and Desist Orders) issued by SD CAC in FY 07/08. SD CAC met DPR standards in the issuance of such compliance actions.

The EBL reviewed a representative sample from the 49 structural civil penalty (SCP) actions and 69 agricultural civil penalty actions (ACP) issued by SD CAC during FY 07/08 and their corresponding case summary documents. The review by the EBL determined SD CAC consistently followed the DPR Enforcement Response Regulations for those enforcement actions. The review of ACP and SCP documents by the EBL also indicated SD CAC followed the state regulations for assessment of class and fine levels within the agricultural and structural setting, including when appropriate the SD CAC determination and fine assessment as a "repeat violation". SD CAC initiates appropriate actions when violations are identified. The actions taken by SD CAC sufficiently supports compliance, enforcement, and public protection. The EBL records review indicates due process requirements were consistently met when taking enforcement actions and in administrative civil penalty hearings.

The Department of Pesticide Regulation would like to acknowledge SD PRP managers and staff for maintaining the expedient processing of Administrative Civil Penalty Actions. The average turn around time to process Notice of Proposed Actions (NOPA) from the date of the violation has been reduced to about 52 days. Also, SD PRP managers were able to significantly reduce the number of requests for Administrative Civil Penalty Hearings.

III. Recommended Corrective Actions

No corrective actions are currently needed.

IV. Non-Core and Desirable Activities:

A. San Diego Fumigation Committee Meeting

During the FY 07/08 SD CAC PRP managers continue to host and coordinate this quarterly meeting with industry. San Diego has the second highest number of structural fumigations and these meetings presents an excellent opportunity to keep key industry representatives in the county informed of new developments and to maintain good communication. The California Legislature approved legislation to include San Diego County in the Structural Fumigation Enforcement Program Committee.

B. Farm worker Health Initiative (FWHI):

During FY 07/08 SD CAC continued a project that began approximately eight years ago to educate agricultural workers on pesticide safety. SD CAC sponsors a multi-agency group that meets once per year to discuss farm worker health and housing issues. SD CAC also participated in the CA-Mexico Border Project's Health Fair during the fiscal year to help educate industry on border pesticide safety issues.

C. Additional outreach and industry training sessions:

San Diego PRP staff gave 39 presentations to industry on agricultural and/or structural laws and regulations and worker safety topics at various continuing education seminars hosted by local colleges, Pesticide Applicators Professional Association (PAPA), California Association of Pest Control Advisors (CAPCA) Pest Control Operators of California (PCOC), and University of California at Riverside (UCR) in addition to updating staff with in-house training.

D. Ground/surface water runoff contamination & Hazardous Material:

PRP staff conducts industry outreach and training and increasing public awareness of these issues as they relate to urban and agricultural pesticide use. This included multi-jurisdictional meetings (state and local water quality enforcement agencies, etc.), presentations and exhibits at industry events, etc.